



~~February 21, 2006 CPC~~
~~March 21, 2006 CPC~~
April 26, 2006 BS

STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

06SN0166

Robert Sowers

Matoaca Magisterial District
Grange Hall Elementary, Swift Creek Middle and Clover Hill High Schools Attendance Zones
South line of Duval Road

REQUEST: Rezoning from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements.

PROPOSED LAND USE:

A mixture of residential uses, to include single family, condominiums and cluster homes, along with supporting recreational uses is planned. The applicant has agreed to limit development to a density of 2.0 dwelling units per acre, yielding approximately 103 dwelling units. (Proffered Condition 7)

PLANNING COMMISSION RECOMMENDATION

RECOMMEND APPROVAL AND ACCEPTANCE OF THE PROFFERED CONDITIONS ON PAGES 2 THROUGH 5.

AYES: MESSRS. WILSON, BASS AND LITTON.

ABSTENTION: MR. GECKER.

ABSENT: MR. GULLEY.

STAFF RECOMMENDATION

Recommend approval for the following reasons:

- A. The proposed zoning and land uses conform to the Upper Swift Creek Plan which suggests the property is appropriate for residential use of 2.0 units per acre or less.

- B. The proffered conditions adequately address the impacts of this development on necessary capital facilities, as outlined in the Zoning Ordinance and Comprehensive Plan. Specifically, the needs for roads, schools, parks, libraries and fire stations is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program, and the impact of this development is discussed herein. The proffered conditions mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained and protecting the health, safety and welfare of County citizens.

(NOTE: CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER(S) MAY PROFFER CONDITIONS. THE CONDITIONS NOTED WITH "STAFF/CPC" WERE AGREED UPON BY BOTH STAFF AND THE COMMISSION. CONDITIONS WITH ONLY A "STAFF" ARE RECOMMENDED SOLELY BY STAFF. CONDITIONS WITH ONLY A "CPC" ARE ADDITIONAL CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION.)

PROFFERED CONDITIONS

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owners and applicant, the proffers shall immediately be null and void and of no further force or effect.

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|-------------|----|--|
| (STAFF/CPC) | 1. | <u>Master Plan</u> . The Textual Statement dated February 2, 2006 shall be the Master Plan. (P) |
| (STAFF/CPC) | 2. | <u>Timbering</u> . Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE) |
| (STAFF/CPC) | 3. | <u>Stormwater</u> . Sediment basins shall remain in place and/or new BMPs constructed to achieve the .22 phosphorous standard until the downstream regional BMP to which this site drains has been constructed. These basins/BMPs shall be designed as permanent facilities unless at the time of tentative subdivision approval a downstream BMP to which the site drains and which achieves the .22 phosphorous standards has been constructed, or has been committed for construction, as determined by Environmental Engineering. (EE) |

- (STAFF/CPC) 4. Utilities. The public water and wastewater systems shall be utilized. (U)
- (STAFF/CPC) 5. Cash Proffer. In addition to the Transportation Contribution described in Proffered Condition 8, the applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit for infrastructure improvements within the service district for the property:
- a. If payment is made prior to July 1, 2006, \$6,685.00 per dwelling unit. At time of payment \$6,685.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$5,331.00 for schools, and \$404.00 for fire stations; or
 - b. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$6,685.00 per dwelling unit pro-rated as set forth in Proffered Condition 5.a. above adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made.
 - c. Provided, however, that if any building permits issued on the property are for senior housing, as defined in the proffer on age-restriction, the applicant, sub-divider, or assignee(s) shall pay, in addition to the Transportation Contribution described in Proffered Condition 8, \$1,354.00 per dwelling unit if paid prior to July 1, 2006, or the amount approved by the Board of Supervisors, not to exceed \$1,354.00 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006. At the time of payment, the \$1,354.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, and \$404 for fire stations. Payments in excess of \$1,354.00 shall be prorated as set forth above.
 - d. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
 - e. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of

or credited toward, but not in addition to, any impact fees, in a manner as determined by the county. (B&M)

(STAFF/CPC) 6. Age Restriction. Any lots for age-restricted dwelling units shall be grouped together on a particular portion of the Property and shall not be scattered among other residential units. At the time of recordation of a subdivision plat or the approval of any site plan, the lots shall be noted as age-restricted. Any site plan for age-restricted dwelling units shall also note the restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designated as age-restricted shall be restricted to "housing for older persons; as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein. (B&M)

(STAFF/CPC) 7. Density. The total number of residential dwelling units on the Property shall not exceed 2.0 residential units per acre. (P)

(STAFF/CPC) 8. Transportation Contribution. The Applicant shall pay to the County prior to recordation of each subdivision section or prior to site plan approval for any residential development, the amount of \$8,915.00 multiplied by the total number of lots on each of the approved final check plats or by the total number of residential units on each site plan. If these amounts are paid after June 30, 2006, the amount paid shall be adjusted upward by any Board of Supervisors' approved increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made. The payment shall be used for road improvements in accordance with the Board's Cash Proffer Policy.

If, upon the mutual agreement of the Transportation Department and the Applicant, the Applicant provides road improvements (the "Improvements"), other than those road improvements identified in Proffered Condition 10, then the Transportation Contribution in this Proffered Condition shall be reduced by an amount not to exceed the cost to construct the Improvements as determined by the Transportation Department. Thereafter, the Applicant shall pay the balance of the Transportation Contribution as set forth in this Proffered Condition. For the purposes of this Proffered Condition, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant shall receive prior written approval by the Transportation Department for any credit. (T)

(STAFF/CPC) 9. Right-of-Way Dedication. Prior to any site plan approval, in conjunction with recordation of the initial subdivision plat, or within sixty (60) days from a written request by the Transportation Department, whichever occurs first, forty-five (45) feet of right-of-way along the southern side of Duval Road, measured from the centerline of that part of Duval Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of the County. (T)

(STAFF/CPC) 10. Road Improvements. To provide an adequate roadway system, the developer shall be responsible for the following improvements with initial development of the Property:

- a. Construction of additional pavement along Duval Road at each approved access to provide left and right turn lanes, if warranted, based on Transportation Department standards.
- b. Widening/improving the south side of Duval Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder and overlaying the full width of the road with one and one half (1.5) inches of compacted bituminous asphalt concrete, with modifications approved by the Transportation Department, for the entire Property frontage.
- c. Dedication to the County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire the "off-site" right-of-way that is necessary for the road improvements described in Proffered Condition 10.a., the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way as determined by the Transportation Department. (T)

(STAFF/CPC) 11. Access. Direct vehicular access from the Property to Duval Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)

GENERAL INFORMATION

Location:

South line of Duval Road, west of Otterdale Road. Tax ID 703-675-1477 (Sheet 14).

Existing Zoning:

A

Size:

51.8 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North and East- A and R-9 with Conditional Use Planned Development; Vacant
South - R-9 with Conditional Use Planned Development; Vacant
West - A; Single family residential

UTILITIES

Public Water System:

The public water system is not available to serve this site. The request site is within the planned future Grange Hall Water Pressure Zone. Before public water will be available, extensive off-site water system improvements will be necessary. These improvements include extending a twenty-four (24) inch water line along Hull Street Road to Otterdale Road; the construction of a water pumping station in the general vicinity of Hull Street Road and Otterdale Road; the construction of a water line with a minimum diameter of twenty (20) inches along Hull Street Road from Otterdale Road to Beaver Bridge Road; and the construction of a three (3) million gallon (MG) water storage tank in the vicinity of Hull Street Road and Beaver Bridge Road. From Hull Street Road, construction of an adequately sized water line along the proposed road network of Magnolia Green, including any necessary looping of water lines to address water quality issues, for a distance of approximately 14,000 feet will be necessary to serve this site. The existing twenty (20) inch water line that terminates adjacent to the intersection of Woolridge and Fox Club Roads, approximately 13,200 feet east of this site, is within the Clover Hill Water Pressure Zone and will not be available to serve any additional development in this area. Any further development of Magnolia Green past the already approved sections, or of property west of the optimum limits of the Clover Hill Water Pressure Zone, will

require a firm commitment by the developers to creation of the Grange Hall Water Pressure Zone by construction of the necessary infrastructure.

The Upper Swift Creek Plan recommends the use of public water. Use of the public water system is intended. (Proffered Condition 4)

Public Wastewater System:

A thirty-six (36) inch wastewater trunk line extends along a portion of Deep Creek and terminates adjacent to Fox March Drive, in Foxfire Subdivision, approximately 12,500 feet east of this site. Plans by TIMMONS, dated: September 14, 2001, for construction of the off-site wastewater trunk line to serve the Magnolia Green development, call for extending a thirty-six (36) inch wastewater trunk line along Deep Creek and, as Magnolia Green develops, a thirty (36) inch trunk line along Blackman Creek, which is adjacent to the southern boundary of this site. Approval of these plans has expired and will require re-submittal for review and approval.

The Upper Swift Creek Plan recommends the use of public wastewater. Use of the public wastewater system is intended. (Proffered Condition 4)

ENVIRONMENTAL

Drainage and Erosion:

The subject property drains to Blackman Creek and then via deep creek to Swift Creek Reservoir. There are currently no on- or off-site drainage or erosion problems and none are anticipated after development. The property is heavily wooded and as such should not be timbered without obtaining a land disturbance permit from the Department of Environmental Engineering. (Proffered Condition 2)

Water Quality:

There is a proposed regional BMP located downstream through which this development would drain. The applicant has proffered to maintain temporary sediment basins or to construct new BMP facilities until such time as the regional facility has been constructed to serve the site. (Proffered Condition 3)

PUBLIC FACILITIES

The need for fire, school, library, park and transportation facilities is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program. This development will have an impact on these facilities.

Fire Service:

The Public Facilities Plan indicates that fire and emergency medical service (EMS) calls are expected to increase forty-four (44) to seventy-eight (78) percent by 2022. Six (6) new fire/rescue stations are recommended for construction by 2022 in the Plan. In addition to the six (6) new stations, the Plan also recommends the expansion of five (5) existing stations. Based on 103 dwelling units, this request will generate approximately ten (10) calls for fire and emergency medical service each year. The applicant has addressed the impact on fire and EMS. (Proffered Condition 5)

The Clover Hill Fire Station, Company Number 7, and Manchester Volunteer Rescue Squad currently provide fire protection and emergency medical service. When the property is developed, the number of hydrants, quantity of water needed for fire protection and access requirements will be evaluated during the plans review process.

Schools:

Approximately fifty-four (54) students will be generated by this development. Currently, this site lies in the Grange Hall Elementary School attendance zone: capacity - 828, enrollment - 812; Swift Creek Middle School zone: capacity - 1,027, enrollment - 1,483; and Clover Hill High School zone: capacity - 1,582, enrollment - 2,080. This case will be in the new Cosby High School zone for 2006-2007. The enrollment is based on September 30, 2005 and the capacity is as of 2005-2006. There are currently fifteen (15) trailers at Swift Creek Middle School and twenty (20) at Clover Hill High School.

A new middle school is in the current Capital Improvements Plan (CIP) and is proposed to open in the fall of 2009 that will provide relief for schools in this area of the county. The new Cosby High School is under construction, and is scheduled to open in the fall of 2006. This school will provide relief for Clover Hill High and Manchester High Schools.

This case, combined with other tentative residential developments and zoning cases in the zones, would continue to push these schools to capacity, especially at the secondary level. This case could necessitate some form of relief in the future. The applicant has addressed the impact of the development on school facilities. (Proffered Condition 5)

Libraries:

Consistent with the Board of Supervisors' policy, the impact of development on library services is assessed County-wide. Based on projected population growth, the Public Facilities Plan identifies a need for additional library space throughout the County.

Development in this area of the County would most likely impact either the existing Clover Hill Library or two new branches that are recommended for this area of the County. One new branch is to be located in the vicinity of the western part of Beach Road and one in the vicinity of Genito Road. The applicant has addressed the impact of the development on library facilities. (Proffered Condition 5)

Parks and Recreation:

The Public Facilities Plan identifies the need for three (3) new regional parks, seven (7) community parks, twenty-nine (29) neighborhood parks and five (5) community centers by 2020. In addition, the Public Facilities Plan identifies the need for ten (10) new or expanded special purpose parks to provide water access or preserve and interpret unique recreational, cultural or environmental resources. The Plan identifies shortfalls in trails and recreational historic sites. The applicant has addressed the impact of the development on park facilities. (Proffered Condition 5)

Transportation:

The property (51.8 acres) is currently zoned Agricultural (A), and the applicant is requesting rezoning to Residential (R-12) with Conditional Use Planned Development to permit various types of residential uses. The applicant has proffered a maximum density of 2.0 units per acre (Proffered Condition 7). Based on single-family trip rates, development could generate approximately 1,070 average daily trips. These vehicles will be initially distributed to Duval Road, which had a 2003 traffic count of 240 vehicles per day (VPD).

The Thoroughfare Plan identifies Duval Road as a major arterial with a recommended right of way width of ninety (90) feet. The applicant has proffered to dedicate forty-five (45) feet of right of way, measured from the centerline of Duval Road, in accordance with that Plan. (Proffered Condition 9)

Access to major arterials, such as Duval Road, should be controlled. The property has approximately 1,040 feet of frontage along Duval Road. A large mixed-use project, Magnolia Green, is located north across Duval Road, south and east of the property. The part of Magnolia Green north of Duval Road, as shown on its overall conceptual subdivision plan, identifies a north/south collector intersecting Duval Road just west of the subject property. This north/south collector is also included in the recommended changes to the Thoroughfare Plan as noted in the proposed Upper Swift Creek Plan amendment. In order to adequately serve area development and to minimize the number of accesses to Duval Road, a residential collector street (i.e., no-lot frontage street) should be provided from Duval Road, extending through the subject property, through the adjacent property to the west, and intersecting Duval Road at the north/south collector. Consistent with that access plan, the applicant has proffered that direct access from the property to Duval Road will be limited to one (1) public road. (Proffered Condition 11)

The traffic impact of this development must be addressed. The applicant has proffered to: 1) construct addition pavement along Duval Road at the public road intersection to provide left and right turn lanes, based on Transportation Department standards; and 2) widen/improve the south side of Duval Road to an eleven (11) foot wide travel lane with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlay with asphalt the full width of the road for the entire property

frontage (Proffered Condition 10). Based on Transportation Department standards, both left and right turn lanes are anticipated to be warranted along Duval Road.

The developer may need to acquire "off-site" right-of-way along the south side of Duval Road east of the property for the turn lane improvements. However, according to Proffered Condition 10, if the developer needs off-site right-of-way and is unable to acquire it, the developer may request the county to acquire the right-of-way as a public road improvement. All costs associated with the acquisition will be borne by the developer. If the county chooses not to assist with the right-of-way acquisition, the developer will not be obligated to acquire the off-site right-of-way, and will only be obligated to construct road improvements within available right-of-way. (Proffered Condition 10)

Area roads need to be improved to address safety and accommodate the increase in traffic generated by this development. Duval Road will be directly impacted by development of this property. Sections of Duval Road have approximately eighteen (18) to nineteen (19) foot wide pavement with no shoulders. The capacity of that section of Duval Road is acceptable (Level of Service A) for the volume of traffic it carries (240 VPD).

The applicant has proffered to provide transportation contributions, in an amount consistent with the Board of Supervisors' Cash Proffer Policy, towards mitigating the traffic impact of this development (Proffered Condition 8). Proffered Condition 8 requires the applicant to pay prior to recordation of each subdivision section or prior to any site plan for residential development, \$8,915 multiplied by the total number of lots on each approved final check plat or site plan. Proffered Condition 8 would also allow, upon mutual agreement of the Transportation Department and the applicant, the applicant to provide road improvements equal to the cost of such payment(s). This option will be considered at time of tentative subdivision plat review.

As development continues in this part of the county, traffic volumes on area roads will substantially increase. Cash proffers alone will not cover the cost of the improvements needed to accommodate the traffic increases. No road improvement projects in this part of the county are included in the Six-Year Improvement Plan, or are expected to be in the Plan in the near future because of other priorities.

At time of tentative subdivision review, specific recommendations will be provided regarding access, the internal street network and providing stub road rights-of-way to adjacent properties.

Financial Impact on Capital Facilities:

		PER UNIT
Potential Number of New Dwelling Units	103*	1.00
Population Increase	280.16	2.72
Number of New Students		
Elementary	24.00	0.23
Middle	13.39	0.13
High	17.41	0.17
TOTAL	54.80	0.53
Net Cost for Schools	550,844	5,348
Net Cost for Parks	62,212	604
Net Cost for Libraries	35,947	349
Net Cost for Fire Stations	41,715	405
Average Net Cost for Roads	921,026	8,942
TOTAL NET COST	1,611,744	15,648

*Based on a proffered maximum yield of two (2) dwelling units per acre (Proffered Condition 7). The actual number of lots and corresponding impact may vary.

As noted, this proposed development will have an impact on capital facilities. Staff has calculated the fiscal impact of every new dwelling unit on roads, parks, libraries and fire stations at \$15,648 per unit. The applicant has been advised that a maximum proffer of \$15,600 per unit would defray the cost of the capital facilities necessitated by this proposed development.

Consistent with the Board of Supervisors' policy, and proffers accepted from other applicants, the applicant has offered cash to assist in defraying the cost of this proposed zoning on such capital facilities. In addition to addressing the impact on schools, parks, libraries and fire stations, the applicant has proffered lump sum cash contribution payments for road improvements that are equivalent to the proposed development's impact on roads. The proffered conditions adequately address the impact of this proposed development on capital facilities. (Proffered Conditions 5 and 8)

Note that circumstances relevant to this case, as presented by the applicant have been reviewed and it has been determined that it is appropriate to accept the maximum cash proffer in this case.

LAND USE

Comprehensive Plan:

Lies within the boundaries of the Upper Swift Creek Plan which suggests the property is appropriate for residential use of 2.0 units per acre or less. The Plan is currently being revised. The draft Plan, as recommended by the Planning Department, is consistent with the aforementioned recommendation of the current Plan for this property.

Area Development Trends:

Surrounding properties to the north and south are zoned for residential uses as part of the Magnolia Green development. Other area properties to the west and northeast are zoned Agricultural (A) and are occupied by single family dwelling or are currently vacant. It is anticipated that residential development will continue in this area at densities suggested by the Plan.

Site Design:

The 51.8 acre tract proposed for R-12 zoning may be developed for condominiums, cluster homes and/or single family residential uses, all of which are discussed in further detail herein. If the property is developed for two (2) or more dwelling types, the Textual Statement requires the submission of a conceptual plan to either the Planning Commission or Planning Department for approval. At the time of review of a conceptual plan, conditions may be imposed to insure land use compatibility and transition. (Textual Statement 1)

Density:

A maximum of 2.0 dwelling units per acre has been proffered, yielding an overall maximum of 103 dwelling units. (Proffered Condition 7)

Dwelling Types:

As previously noted, several dwelling types are proposed. Where common areas are to be provided within the development, the Textual Statement requires that the ownership and maintenance responsibilities be established. (Textual Statement 2)

Condominiums:

For any condominium development, density would be limited to six (6) units per acre (Textual Statement 4). Other standards address units per building, building height, architectural treatment, lot coverage and setbacks, as well as provisions for sidewalks, buffers, recreational facilities, focal point, street trees and garage treatment. (Textual Statement 3 and 5 through 19)

The requirements offered for condominium projects are consistent with those typically required by the Commission and Board on similar projects recently approved.

Cluster Homes:

Cluster homes are proposed on individual lots having a minimum of 6,000 square feet. The density for any cluster development would be limited to six (6) units per acre. Other standards include architectural treatment, setbacks, provision of sidewalks, buffers, focal point, street trees, paved driveways and garage treatment. (Textual Statement 20 through 29)

The requirements offered for cluster projects are consistent with those typically required by the Commission and Board on similar projects recently approved.

Single Family Residential:

Single family residential uses would be required to be developed in accordance with Ordinance requirements for Residential (R-12) Districts. The minimum lot size would be 12,000 square feet. Conditions address minimum dwelling sizes. (Textual Statement 30)

The Textual Statement would require the recordation of restrictive covenants for any residential development, other than cluster and condominium uses. It should be noted that the County will only insure the recordation of the covenants and will not be responsible for their enforcement. Once the covenants are recorded, they can be changed. (Textual Statement 32)

Recreation Areas and Open Space:

The applicant has agreed to provide a minimum of 1.5 acres of recreation area within, or conveniently accessible to, each condominium development. Within each of the condominium and cluster home developments, a minimum of .75 acres of open space would be located as a focal point. The applicant may also provide active and passive recreation areas within any portion of the development. The Textual Statement provides for restrictions to minimize the impact of these recreational uses on surrounding residential uses. (Textual Statement 31)

Within the cluster home developments, where lot areas are reduced below the minimum 12,000 square feet, the Ordinance will require that comparable amount of square footage be placed in open space.

Within any condominium development, children's play facilities would be prohibited. (Textual Statement 16)

Age Restriction:

Should any housing units be designed for occupancy by seniors, proffered conditions require that such units be grouped together and identified on site and subdivision plans in an effort to accurately track the impacts on capital facilities. (Proffered Condition 6)

CONCLUSIONS

The proposed residential zoning and land uses comply with the Upper Swift Creek Plan which suggests that the property is appropriate for residential development of 2.0 units per acre or less.

The proffered conditions adequately address the impacts of this development on necessary capital facilities, as outlined in the Zoning Ordinance and Comprehensive Plan. Specifically, the need for roads, schools, parks, libraries and fire stations is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program, and the impact of this development is discussed herein. The proffered conditions mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained and protecting the health, safety and welfare of County citizens.

Given these considerations, approval of this request is recommended.

CASE HISTORY

Planning Commission Meeting (2/21/06):

On their own motion, the Commission deferred this case to March 21, 2006.

Staff (2/22/06):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than February 27, 2006, for consideration at the Commission's March 21, 2006, public hearing.

Applicant (3/8/06):

A proffered condition was amended.

Planning Commission Meeting (3/21/06):

The applicant accepted the recommendation. There was opposition present. Concerns were expressed relative to water quality; impacts on police, fire, schools and roads; and the absence of planning in accordance with smart growth philosophy.

Discussions ensued relative to the impact of the recent decisions regarding the County's Regional BMP Plan. It was generally agreed that Proffered Condition 3 satisfies water quality concerns even if the Regional BMP Plan is not implemented.

Mr. Gecker suggested that Proffered Condition 3 regarding on-site water quality measures should be amended to require any such facilities be designed as permanent facilities given the unknowns relative to the Regional Plan. The applicant agreed to such an amendment.

Suggestions were made that perhaps a deferral would be in order to further discuss the implications regarding the decisions on the County's Regional BMP Plan and the current Ordinances regarding that Plan.

Mr. Gecker suggested that approval could accelerate the development of Magnolia Green. He also questioned the policy regarding the credits toward capital facilities (schools) applied to age-restricted housing noting that the policy relative to the number of school children per dwelling unit is based upon county-wide averages.

Mr. Bass stated that the application addresses impacts on water quality and provides for contributions toward road improvements at the first phase of development.

Mr. Gecker indicated the proposal is premature and that funds for road improvements are not in the foreseeable future.

On motion of Mr. Bass, seconded by Mr. Litton, the Commission recommended approval and acceptance of the proffered conditions on pages 2 through 5.

AYES: Messrs. Wilson, Bass and Litton.

ABSTENTION: Mr. Gecker.

ABSENT: Mr. Gulley.

Applicant (3/23/06):

As discussed at the Commission's meeting, revised Proffered Condition 3 was submitted.

The Board of Supervisors, on Wednesday, April 26, 2006, beginning at 7:00 p.m., will take under consideration this request.

TEXTUAL STATEMENT

February 2, 2006

This is a request to rezone 54.75 acres of the Property (Tax ID 703-675-1477) under consideration to R-12 with a Conditional Use Planned Development (CUPD) that will permit development of a mixed use, planned community including single family residences, condominiums and cluster homes. Except as qualified herein, uses permitted in the Residential (R-12) District and active and passive recreation uses shall be permitted throughout the property. In addition, the following uses as more fully defined below shall also be permitted.

APPLICABLE TO ALL

1. Mixing of Uses. Within the Property there shall be no "mixing" of uses (e.g., if the Property is to be developed for condominiums, all of the Property shall be developed as condominiums, or if the Property is developed for Residential (R-12) uses, all of the Property shall be developed for Residential (R-12) uses). Provided, however, the mixing of uses may be permitted if a conceptual plan is submitted for review and approval and the conceptual plan addresses land use transitions and compatibility between uses within the Property itself as well as with adjacent Properties. Consideration of land use compatibility and transitions may include, but not necessarily be limited to, the exact location of uses, buffers, and site design. Such conceptual plan shall be approved by either the Planning Commission or the Planning Department, at the election of the developer, and such review shall be subject to appeal in accordance with provisions of the Zoning Ordinance for site plan appeal.
2. Common Areas. Common areas and ownership of property shall be regulated by Section 19-559 of the County Zoning Ordinance.

APPLICABLE TO CONDOMINIUMS AND CLUSTER HOMES

Condominiums shall meet the following requirements:

3. Number of Units Per Building. No more than ten (10) dwelling units shall be permitted in any one building.
4. Density. The overall density shall not exceed six (6) dwelling units per gross acre.
5. Lot Coverage. All buildings, including accessory buildings, shall not cover more than forty (40) percent of the Tract or area devoted to the condominium development.
6. Building Height. The maximum height of all buildings and structures shall be three (3) stories or forty (40) feet, whichever is less.

7. Architectural Appearance. The architectural appearance and materials of buildings containing not more than four (4) units shall be similar to the elevations attached as Exhibits A and B, and employ the following materials: brick veneer, composition siding and 20 year asphalt shingles, or shall be of at least similar quality, as determined by the Planning Director at time of site plan review. The architectural appearance and materials of buildings containing more than four (4) units shall be similar to the elevations attached hereto as Exhibits C, D, and E, or shall be of similar quality as determined by the Planning Director at time of site plan review.
8. Building Setbacks from Roads and Driveways. All structures shall be set back a minimum of ten (10) feet from interior roads and driveways, provided that no setback shall be required from driveways that serve garages or parking spaces of individual dwelling units and do not provide general circulation within the condominium development ("Individual Driveways"). All structures shall be set back at least fifteen (15) feet from any parking space and a minimum of fifty (50) feet from the ultimate right of way of Duval Road or any collector road external to the condominium development.
9. Building Setbacks from Perimeter of Tract. All structures shall be setback a minimum of fifty (50) feet from the perimeter of the area devoted to condominium development. All perimeter yards shall be planted per the requirements of Perimeter Landscaping C of the Zoning Ordinance.
10. Distance Between Buildings. The minimum distance between buildings shall be thirty (30) feet.
11. Driveway and Parking Setbacks. All driveways and parking areas shall be setback a minimum of fifteen (15) feet from the right-of-way of any existing or proposed right-of-way except that the setback adjacent to Duval Road or any collector road external to the condominium development shall be fifty (50) feet.
12. Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the overall development, to the recreational areas serving the development, and to the overall project. The exact location and design of the sidewalks shall be determined by the County at the time of site plan review; provided, however, that, unless otherwise approved by the Planning Director at time of site plan approval upon a determination that an alternative system will accomplish the spirit and intent of this requirement, sidewalks shall be installed on those portions of both sides of all roads that have condominiums fronting the road, but not along Individual Driveways.
13. Curb and Gutter. Roads, driveways (with the exception of Individual Driveways), and parking areas shall have concrete curbs and gutters unless it is determined at the time of site plan review that the curbs and gutters are not necessary to effect proper drainage or to control traffic.

14. Driveway Width. Driveways shall have a minimum pavement width of twenty four (24) feet, provided that driveways that provide the primary access directly to a public road shall have a minimum pavement width of thirty (30) feet. Individual Driveways serving not more than four (4) dwellings shall have a minimum pavement width of seventeen (17) feet; provided, however, the pavement width of any driveway designated as a fire lane in connection with site plan review shall not be less than twenty (20) feet.
15. Recreation Area. A minimum of one and one-half (1.5) acres included within, or conveniently accessible to, each condominium development shall be provided for suitable active and passive outdoor recreational use by the occupants. A minimum of 0.75 acres of open space/recreation area shall be located and positioned to provide a "focal point" as one enters each condominium development. Part of this area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate outdoor gatherings. This area shall be developed concurrently with the development of the first phase of each condominium development, and its exact design and location approved at the time of site plan review.
16. Restriction on Children's Play Facilities. The common area recreational amenities shall not include playground equipment, play fields or other facilities primarily associated with children's play. Adult facilities including, but not limited to, swimming pools, putting greens or shuffleboard may be permitted.
17. Street Trees. Street trees shall be planted or retained along each side of roads and driveways except for Individual Driveways. The exact spacing, species and size shall be approved at the time of site plan review.
18. Buffer. A fifty (50) foot buffer shall be maintained adjacent to Duvall Road and any other public road which is a major arterial, and a thirty-five (35) foot buffer shall be maintained adjacent to any public road that is an internal collector road. Such buffers shall comply with the requirements of Section 19-520 through 19-522 of the Zoning Ordinance and may be inclusive of the Perimeter Landscape requirements identified in Proffer 10. At the time of site plan review, the width of this buffer may be modified if it is determined that adequate landscaping or other treatment to minimize the impact of adjacent roads on residences can be accomplished in a lesser width. The exact treatment of the buffer area shall be approved at the time of site plan review. This buffer area shall be maintained as common open space.
19. Garages. Any front-loaded garages shall be located no closer to the street than the front façade of the dwelling unit.

Cluster Homes – Single family detached cluster homes shall meet the following requirements:

20. Lot Size. The minimum lot size shall be as follows: a fifty (50) foot minimum lot width; and a six thousand (6,000) square foot minimum lot area.

21. Density. The overall density within each tract or part of a tract containing cluster homes shall not exceed six (6) units per gross acre.
22. Architectural Appearance. The architectural appearance and materials of cluster homes shall be similar to the elevations attached as Exhibits F and G, which depict vinyl siding and twenty year fiberglass shingles, or shall be of at least similar quality, as determined by the Planning Commission at the time of tentative subdivision review.
23. Front, Corner, Side and Rear Yard. For principal structures, front, corner/side and rear yards shall have a minimum depth of twenty-five (25) feet. Accessory structures shall have a twenty-five (25) foot front yard setback but no rear yard setback.
24. Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the Development, to the recreational areas serving the development, and to the overall project. The exact location and design of the sidewalks shall be determined by the County at the time of tentative subdivision review; provided, however, that, unless otherwise approved by the Planning Commission at time of subdivision review upon a determination that an alternative system will accomplish the spirit and intent of this requirement, sidewalks shall be installed on those portions of both sides of all roads that have cluster homes fronting on the road.
25. Buffers. Buffers required by the Subdivision Ordinance along roads shall be located within recorded open space.
26. Paved Driveways. All dwelling units shall have paved driveways. The exact treatment shall be approved at the time of tentative subdivision plan review.
27. Focal Point. A minimum of 0.75 acres of open space shall be located and positioned to provide a "focal point" as one enters each cluster home development. Part of this area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate outdoor gatherings. This area shall be developed concurrently with the development of the first phase of each cluster home development, and its exact design and location shall be approved at the time of tentative subdivision review.
28. Garages. Any front-loaded garages shall be located no closer to the street than the front façade of the dwelling unit.
29. Street Trees. Street trees shall be planted or retained along each side of roads and driveways except for Individual Driveways. The exact spacing, species and size shall be approved at the time of tentative subdivision plan review.

APPLICABLE TO RESIDENTIAL R-12

All dwellings other than Condominiums and Cluster Homes shall meet the requirements of the Residential (R-12) District as well as the following requirements:

30. Minimum Square Footage for Single Family Dwellings. With the exception of Cluster Homes or Condominiums and for those dwellings delineated in Proffer 35 below, the minimum gross floor area for single family detached homes shall be as follows:

1 story	1,700 square feet;
More than 1 story	2,000 square feet;

31. Recreation Areas. At the election of the developer, active and passive recreation areas may be provided. Such recreation areas shall be subject to the following requirements:

- a. With the exception of playground areas which accommodate swings, jungle gyms, or similar facilities and tennis courts, all outdoor play fields, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from adjacent properties zoned or designated on the County's Comprehensive Plan for residential use, a minimum of one hundred (100) feet from any existing or proposed single family residential lot line, and a minimum of fifty (50) feet from any existing or proposed road.
- b. Within the one hundred (100) and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed road. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
- c. Any playground areas (i.e. areas accommodating swings, jungle gyms or similar such facilities) and tennis courts shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
- d. Nothing within this condition shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
- e. There shall be no outside public address system or speakers.
- f. The maximum height for light posts shall not exceed twenty (20) feet.
- g. The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
- h. In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions.

32. Covenants. For all properties containing single family detached dwellings (except Cluster Homes and Condominiums), the following Declaration of Restrictions shall be recorded in conjunction with the recordation of any subdivision plat:

THE OWNERS do hereby declare that said property is to be held, owned, conveyed, used and occupied subject to the following restrictive covenants:

- a. An Architectural Review Committee, hereinafter called "ARC" shall be comprised of Robert C. Sowers, his heirs, personal representatives, successors, and assigns, any of which may act. The ARC shall coordinate each residence and lot and shall establish reasonable rules and regulations relating to the procedure for architectural approvals and general guidelines for architectural plans according to the following architectural guidelines:

All plans to be approved prior to commencement of construction on each lot.
House location to be approved prior to construction.

Roof

Minimum 7/12 pitch
Minimum 12" overhang
No uncolored galvanized flashing

Foundation

Brick foundations
Brick or stone on chimney chases

Dwelling

Main body of house to be a minimum of 30 feet in width
No single story homes adjacent to each other

Stoops and walks

Brick stoops or painted fir (no salt treated stoops except when approved by ARC)
Minimum 40 sq. ft.
Concrete sidewalks
Painted lattice under front porches - painted risers on steps, painted pickets and painted band on front porches

Siding

Panel shutters on front windows
Minimum 1 x 6 rake and fascia boards
No T1-11 siding

Landscaping

\$300 allowance for shrubs
White painted mailbox and lamp post consistent throughout subdivision
Builder to leave as many trees as possible over 6 inches at the base

Base

3 color exterior paint except for 2 colors if
painted white

Satellite Dishes and swimming pool design, location and screening to be approved
prior to installation.

The ARC reserves the right to modify the above restrictions or any other imposed
deed restrictions in all or in part without notice. In addition, the ARC reserves the
right to make special exceptions to these conditions on an individual basis;
however, any special exception(s) shall not be deemed as waiver of the
restriction(s) as they may apply in the future.

The ARC reserves the right to disallow construction of architecturally similar
homes adjacent to each other.

The ARC shall not be liable to any Owner or to any other person on account of
any claim, liability, damage, or expense suffered or incurred by or threatened
against an Owner or such other person arising out of or in any way relating to the
subject matter of any review, acceptances, inspections, permissions, consents, or
required approvals which must be obtained from the ARC whether given, granted
or withheld.

- b. No repairs, changes in color, excavations, changes in grade, major landscaping, or
other work which in any way alters the exterior appearance of any Lot or
improvement located thereon from its natural or improved state existing on the
date such Lot was first conveyed in fee by Robert C. Sowers to an owner
(including clearance of trees and vegetation, driveways, entrance ways, fences,
mailboxes, and lamp post structures), shall be made or done until the plans,
specifications, working drawings, and proposals for the same showing the nature,

kind, shape, type, color, materials, and location of the improvements on the Lot and a landscaping plan shall have been submitted to and approved in writing to promote harmony of external design and location in relation to surrounding structures, topography, and applicable governmental requirements by the ARC.

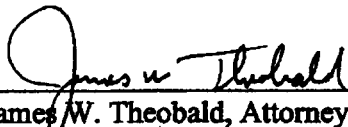
- c. All easements along road frontage and lot lines as may be shown on any subdivision plat are hereby reserved unto the developer, his personal representatives, heirs, assigns, or agents, for the purpose of drainage or furnishing light, telephone or any other utility to the property.
- d. Lots shall be occupied and used as follows:
 - i. Lots shall be used for private residential purposes only and no building of any kind whatsoever shall be erected or maintained thereon except for:
 - 1. One private dwelling house with each dwelling being designated for occupancy by a single family.
 - 2. Private garages for the sole use of the respective owners of the Lots upon which such garages are erected.
 - ii. A single building for the storage of non-commercial vehicles, boats, equipment, and tools used in maintenance of the Lot upon which erected.
- e. No building shall be located on any Lot nearer to any street or to a side line than is permitted under the applicable local zoning ordinance in effect at the time such building is constructed.
- f. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently.
- g. The construction of any structure on a Lot shall be completed within a period of nine (9) months after the beginning of construction. During construction, the Lot shall be maintained in a clean and uncluttered condition, free of unnecessary accumulation of waste and building debris.
- h. It is the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt condition of buildings or grounds on his Lot. All improvements on each Lot shall be kept in good repair, and, where necessary, painted on a regular basis. No portion of the property shall be used or maintained as a dumping ground for rubbish. Outdoor burning of leaves, trash or other debris shall not be permitted. All trash, garbage, and other waste shall be kept in sanitary containers which shall be surrounded by wooden screening with such screening being approved by the ARC, or otherwise out of sight from the street.

- i. No nuisance or offensive activity shall be permitted or maintained upon any Lot, nor shall any poultry, hogs, rabbits, cattle or other livestock be kept thereon with the exception of dogs, cats or other normal household animals kept as pets thereon in numbers not exceeding those permitted by the law, provided they are not kept, bred or maintained for any commercial purposes, and must be kept under control of their owner when outside owner's premises, nor constitute a nuisance in the opinion of the ARC, its successors or assigns. No use shall be made of any Lot which will depreciate or adversely affect the surrounding Lots or the property.
- j. Each residence constructed on a Lot shall be connected to a public sewer.
- k. No Lot shall be further subdivided without prior written consent of the ARC. However, the developer hereby expressly reserves for itself, its successors, and assigns, the right to re-subdivide any Lot or Lots shown on any recorded plan of subdivision of the property prior to the delivery of a deed to said Lot or Lots without the prior written consent of any Lot Owner.
- l. Except for emergencies, which emergencies must be proven to the satisfaction of the ARC, no trees with a diameter of six (6) inches or more, measured two (2) feet from the ground, no flowering trees, shrubs, or evergreens may be cleared from any Lot without prior written permission of the ARC. In the event a Lot Owner violates this covenants the Lot Owner will be fined \$25.00 per inch for every such tree removed and it shall be assumed that each tree had a diameter of twelve (12) inches.
- m. No commercially licensed vehicles, motor vehicles, recreational vehicles, boats, disabled vehicles, vehicles without a current state license or state inspection sticker, machinery, or other equipment shall be visible from the street for a period exceeding twenty-four (24) hours. Any screening of such vehicles must be approved by the ARC. This covenant shall not apply to vehicles and equipment used in connection with construction upon Lots, while such construction is in progress, or in connection with the development of the property. It shall be the responsibility of each Owner to construct and maintain suitable and adequate parking space on his Lot and all vehicles shall be parked thereon.
- n. The operation of unlicensed motor bikes, ATV's, and motorcycles on the lots and entrance area shall be subject to regulation by the Owners and may be prohibited entirely.
- o. No external illumination on any Lot shall be of such a character or intensity or so located as to interfere with any other Owners use or enjoyment of his Lot. No neon or flashing lights shall be permitted. All external lighting must be approved as to size and intensity by the ARC.

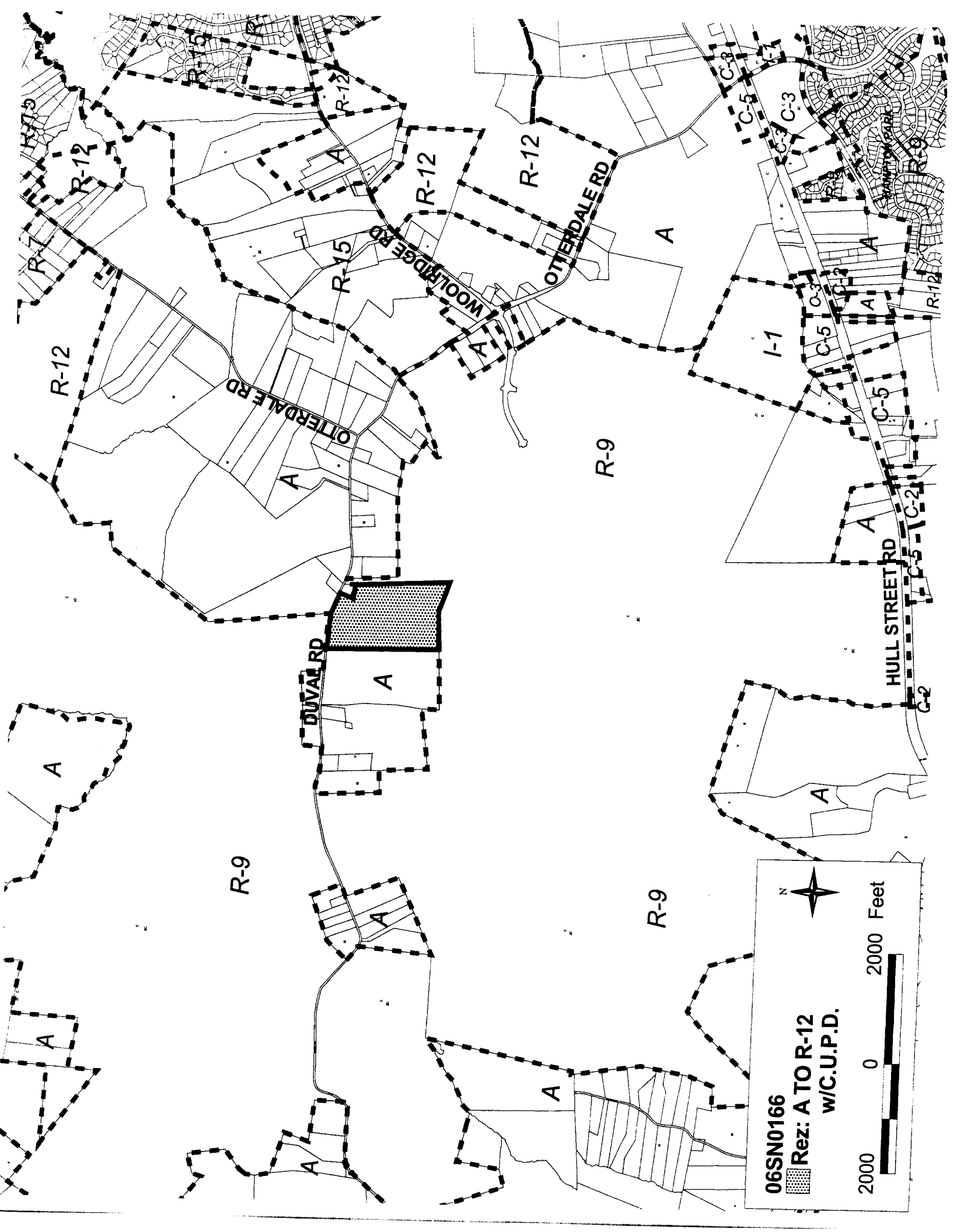
- p. Except during construction, no signs of any kind shall be displayed to the public view on any lot except:
 - i. One sign not exceeding four (4) square feet in areas used for the purpose of advertising the Lot for sale or rent: and
 - ii. One sign not exceeding four (4) square feet in area which identifies the resident occupying the Lot, the name of the Lot, or both.
- q. No temporary, portable, or above-ground swimming pools may be erected on any Lot that will be visible from the street.
- r. Except as otherwise provided by applicable law, no outside antennas, television or otherwise, shall be permitted; provided, however, that until cable television becomes available to the property, exterior television antennas shall be permitted, provided that they do not extend more than five (5) feet past the roof line of any dwelling. No satellite dishes shall be visible from the street.
- s. No construction shall be permitted without appropriate erosion control so as to prevent the discharge of any soil or other material onto any other Lot or Common Area. The ARC may establish reasonable rules and regulations establishing a maximum percentage of any Lot which may be covered by a building, driveway or other structure.
- t. No fences or walls not constituting a part of a building shall be erected, placed or altered on any Lot nearer to any street than the minimum exterior setback line, but in no case shall it extend further forward than the rear of the house except with the approval of the ARC.
- u. No shrubs, trees, fences or structures of any type shall be erected which may partially or fully block vehicular sight distance, as set forth in the Virginia Highway Department regulations, on any roadway.
- v. No lot owner shall disturb or siltate shoulders, backslopes, ditches, pavement, curb and gutter, driveway culverts, or any other improvements within the public right-of-way. Each Lot Owner agrees to be responsible for disturbances, damages, and/or siltation caused by themselves, their employees, suppliers, contractors, or others, and shall have fourteen (14) days from the receipt of a letter from the developer and/or the ARC to correct the damage. If a Lot Owner fails to correct the damage in a workmanlike manner, then the developer or its assigns shall have the right to correct the damage and bill the Lot Owner directly on a cost-plus-fifty-percent (50%) basis. If a Lot Owner does not make payment within thirty (30) days of presentation of the bill, a two percent (2%) per month service charge shall be applied to such bill.

- w. Any one or more of the aforesaid Covenants and Restrictions may be waived, modified, or rescinded, in whole or in part, as to all of the property or any Lot, by written instrument of the ARC.
- x. Invalidation of any of these covenants and conditions, by court adjudication or otherwise shall in no way modify, affect, or invalidate any of the other covenants and conditions contained herein which shall remain in full force and effect.
- y. Each and every covenant and condition herein imposed may be enforced by the undersigned or the owner of any Lot by appropriate proceedings at law or in equity against any party violating or attempting or threatening to violate the same to prevent or rectify such violation and or recover damages therefore. The failure of an owner or the undersigned to bring any such proceeding shall not be considered as a waiver of any rights at law or in equity that any such party may have for past or future violation of any covenant herein contained.
- z. These covenants and conditions are to run with the land and shall be binding upon subsequent owner or owners and all parties claiming through or under such owner or owners for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the Lots has been recorded, revoking said covenants, or agreeing to change said covenants in whole or in part.

CORPORATE LAND ASSOCIATES,
a Virginia partnership

By: 
James W. Theobald, Attorney-in-Fact
Date: February 2, 2006

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06SN0166

Rez: A TO R-12
w/C.U.P.D.



ACCESS PLAN

CASE 06SN0166

**POSSIBLE RESIDENTIAL
COLLECTOR STREET**

MAGNOLIA GREEN

DUVAL

OTTERDALE

WOOLRIDGE

NORTH

NORTH/SOUTH COLLECTOR

06SN0166-1

